

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 97-133-C - ORDER NO. 2003-349 *WLD*

MAY 27, 2003

IN RE: Application of RSL COM U.S.A., Inc. for a ) ORDER GRANTING  
Certificate of Public Convenience and ) MOTION FOR  
Necessity to Operate as a Reseller of ) EXPEDITED REVIEW  
Interexchange Telecommunications Services ) AND CANCELLATION  
within the State of South Carolina ) OF CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Motion for Expedited Review of Application filed by RSL COM U.S.A., Inc. (“RSL” or “Company”) requesting Commission approval of the cancellation of RSL’s Certificate of Public Convenience and Necessity. Pursuant to Rules 103-308, 103-820, 103-840 and other applicable rules of practice and procedure of the Commission, RSL also requests expedited review and disposition of the Application.

RSL is a certificated reseller of interexchange telecommunications services in this State having received certification to provide resold intrastate long distance telecommunications services by Commission Order No. 97-776, dated September 9, 1997.

On June 18, 2003, in Docket No. 2002-209-C, WorldxChange Communications, Inc. (“WorldxChange”) and RSL submitted a joint application to the Commission requesting authority to enable WorldxChange to acquire the assets of RSL, including RSL’s long distance customer base and the assets associated with those operations.

WorldxChange and RSL's joint application was approved by the Commission on September 11, 2002, in Order No. 2002-605, "Order Approving Authority and Transfer and Sale of Assets, and for Expedited Review." Item 2 of the Ordering clause of Order No. 2002-605, states that "RSL shall, by separate application, seek Commission authority to voluntarily withdraw its certification and terminate services in South Carolina, effective upon consummation of the transaction." Accordingly, RSL, by its Motion asserts that the transaction between WorldxChange and RSL was consummated on December 10, 2002, and requests that the Commission grant approval for the cancellation of the Company's Certificate.

#### **MOTION FOR EXPEDITED REVIEW**

As part of its Application, RSL requested expedited review and disposition of the Application. In furtherance of its request for expedited review, RSL filed verified testimony in support of the Company's Application. Since there were no intervenors in the WorldxChange/RSL proceeding (Docket No. 2002-209-C), and the proceeding was otherwise unopposed, RSL requests that the Commission waive the hearing requirement and process its application without a formal hearing. The Commission Staff then brought the matter to the Commission for consideration.

Upon consideration of RSL's request for expedited review, the Commission finds that expedited review should be granted. By its request, RSL waives the Company's right to a formal hearing. The Commission finds that notice of the Joint Application of WorldxChange and RSL, Docket No. 2002-209-C, was properly afforded to the public and that no interested person sought to become a party to the proceeding. The

Commission finds that procedural due process was afforded in this matter by the notification requirements being achieved in Docket No. 2002-209-C, and further finds that RSL makes a knowing waiver of a formal hearing. Therefore, the Commission will consider the Application in the context of its regularly scheduled weekly meeting, with court reporter present, and for purposes of the expedited review, the Commission will deem the examination of the Application and verified testimony during the course of the Commission's regularly scheduled meeting with court reporter present as a hearing on this matter.

#### **EXAMINATION OF THE APPLICATION AND VERIFIED TESTIMONY**

By the Application, RSL moves before the Commission to approve the cancellation of the Company's Certificate of Public Convenience and Necessity and that the hearing requirement to approve the cancellation be waived. In support of the Application, RSL filed the verified testimony of Eric Fishman, Assistant Secretary of RSL.

In his testimony, Fishman provides a brief background of the circumstances leading to the current proceeding and describes the transaction for which RSL presently seeks Commission approval. Fishman testified that the Commission was notified in June, 2002, of RSL's intent to transfer its remaining assets and customers to another carrier, WorldxChange. The RSL/WorldxChange transaction was consummated on December 10, 2002, according to Fishman, after all required state and federal regulatory approvals were received, including bankruptcy court approval, and after all affected RSL customers were notified. According to the record and Fishman's testimony, the Commission was duly

notified of the consummation by letter dated December 23, 2002. The testimony also reveals that RSL is now in the process of completing an orderly wind down of its business affairs. As of December 10, 2002, Fishman testified that RSL has no customers in South Carolina and has ceased its operations.

Fishman also testified regarding the impact the WorldxChange/RSL transaction and cancellation of RSL's Certificate will have on South Carolina customers. According to Fishman, all former South Carolina customers of RSL were notified of the transaction and were free to choose another carrier in the competitive long distance telephone industry or to continue to be serviced by WorldxChange. The transfer was made in a seamless fashion, Fishman testified, that did not and will not adversely affect the provision of service to South Carolina customers. Lastly, Fishman stated that the transaction is in the public interest since it will remove the Commission's administrative burden of regulating a carrier that is no longer in operation.

At its regularly scheduled meeting on May 20, 2003, the Commission reviewed the case before it. After due consideration, the Commission concludes that the Application of RSL for approval of the cancellation of the Company's Certificate should be granted, and the Commission further concludes that RSL's Motion for Expedited Review should be granted. Since the WorldxChange/RSL transaction was consummated without any opposition in Docket No. 2002-209-C and the present matter is solely a request for cancellation of RSL's Certificate as ordered by Item 2 of the Ordering clause in Commission Order No. 2002-605, the Commission believes that a formal hearing is not warranted in this matter as no South Carolina customers will be affected.

IT IS THEREFORE ORDERED THAT:

1. RSL COM U.S.A., Inc.'s Certificate of Public Convenience and Necessity to operate as a reseller of intrastate long distance telecommunications services in the State of South Carolina granted by Order No. 97-776, dated September 9, 1997, is hereby cancelled.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



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Gary E. Walsh, Executive Director

(SEAL)